

JUN 27 1996

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OFFICE OF SECRETARY

**BY HAND**

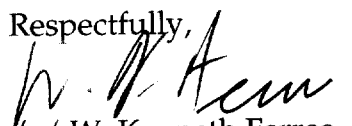
William F. Caton  
Acting Secretary  
1919 M Street NW, Room 222  
Washington, D.C. 20554  
Federal Communications Commission

Re: MM Docket No. 92-260; CS Docket No. 95-184

Dear Mr. Caton:

On June 27, 1996, Michael Katzenstein of OpTel, Inc., Donald Simons of MultiTechnology Services, L.P., Henry Goldberg, and Brian Fontes met with William E. Kennard, FCC General Counsel, regarding the market for multichannel video programming distribution. A summary of the issues discussed is attached hereto.

Respectfully,

  
/s/ W. Kenneth Ferree  
Attorney for OpTel, Inc.

cc: William E. Kennard

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## PRIVATE CABLE INSIDE WIRING ISSUES

June 27th & 28th, 1996

Franchised cable MSOs currently enjoy a monopoly of the local multichannel video programming distribution market. LECs someday may encroach upon that monopoly, but the substitution of a duopoly for a monopoly would not significantly enhance consumer welfare. Today, however, "private cable" companies are providing actual competition to MSOs in those limited areas in which they are permitted to do so by statute and regulation. The continued viability of these private cable companies is essential to the growth and development of a competitive market for multichannel video programming services.

Several of the issues to be resolved in the pending inside wiring NPRMs will have a profound effect on the continuing viability of the private cable industry:

1. **Mandatory Access** — The private cable industry opposes mandatory access to MDUs for all multichannel video programming distributors (MVPDs). Even if the FCC has the statutory and constitutional authority to require such a "taking" of private property, federally-mandated MVPD access would lessen competition by freezing out private cable. Unlike franchised operators who have a community-wide cable system over which to amortize their costs, private cable competitors must recover their costs on a building-by-building basis. Without exclusivity, private cable operators cannot afford to make the investment required to install their own facilities in MDUs. At most the Commission should require access only for entities without market power.
2. **Demarcation Point** — The current cable demarcation point is inaccessible in many MDUs and, therefore, it stifles entry of new competitors into the market. The demarcation point should be moved to the point at which the cable becomes dedicated to an individual unit or building.
3. **MDU Owner Access To Wiring** — MDU owners should have greater control over wiring in MDUs, particularly in situations in which the residential units are occupied by renters. Renters have no incentive to buy or maintain cable inside wiring that will remain with a unit when they vacate the premises.
4. **Fresh Look** — The Commission should consider applying the fresh look doctrine to franchised cable service contracts that extend in perpetuity.